

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RICHARD LESLIE DOCKUM,
TDCJ-ID NO.1230312,
Plaintiff,

v.

HARRIS COUNTY SHERIFF'S
DEPARTMENT, *et al.*,
Defendants.

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CIVIL ACTION NO. H-05-2799

OPINION ON DISMISSAL

Plaintiff Richard Leslie Dockum, a state inmate, has filed his third complaint against Harris County Sheriff's Department, the Harris County Jail Nurse Staff, Aramark Incorporated, and two physicians – Dr. Seale and Dr. Lockust. (Docket Entry No.1). The Court will dismiss this action because it is duplicative and thus, filed maliciously.

Plaintiff alleges that in mid-January of 2004, he slipped and fell on a wet floor in the shower area of the Harris County Jail. Plaintiff contends the floor was wet because the sink and shower were in disrepair. He suffered an injury to a pre-existing knee condition, for which he was “continually denied and neglected proper medical treatment for the knee and back.” (Docket Entry No.1). Plaintiff refers the Court to Civil Action No.H-04-2140 “for further information.” (*Id.*).

Plaintiff, proceeding *pro se* and *in forma pauperis*, presented the same claims in two prior federal civil rights actions. *Dockum v. Harris County Sheriff's Department*, Civil Action No.H-04-2140 (S.D. Tex. Mar. 18, 2005); *Dockum v. Harris County Sheriff's Department*, Civil Action No.H-05-1851 (S.D. Tex. Aug. 12, 2005). The first was dismissed for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). *Dockum*, Civil Action No.H-04-2140. The second was dismissed because it was duplicative and therefore, malicious, pursuant to 28 U.S.C. § 1915(e)(2). *Dockum*, Civil Action No.H-05-1851.

As in Civil Action No.H-05-1851, maintenance of this civil rights action would be redundant and an impermissible waste of judicial resources. *See Mayfield v. Collins*, 918 F.2d 560, 561-62 (5th

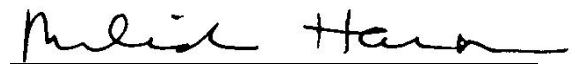
Cir. 1986); *Ferguson v. Mbank Houston, N.A.*, 808 F.2d 358 (5th Cir. 1986). A federal court may dismiss an inmate's civil rights action if the court determines that the action is malicious. 28 U.S.C. § 1915(e)(2)(B)(i). Duplicative cases are malicious as a matter of law under § 1915. *See Hill v. Estelle*, 423 F.Supp.690 (S.D. Tex.), *aff'd*, 543 F.2d 754 (5th Cir. 1976). Duplicative claims can be dismissed *sua sponte*. *Wilson v. Lynaugh*, 878 F.2d 846 (5th Cir. 1989).

Because plaintiff's complaint is malicious, the Court ORDERS that it be DISMISSED with prejudice, pursuant to 28 U.S.C. § 1915(e)(2)(B)(i).

Plaintiff's application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(e) is GRANTED. Plaintiff shall pay the entire \$250.00 filing fee under 28 U.S.C. § 1915(b). The Inmate Trust Fund of the Texas Department of Criminal Justice shall deduct \$23.60 from plaintiff's trust fund account and forward the money to the Clerk of this Court. Thereafter, the Inmate Trust Fund shall deduct twenty per cent (20%) of each deposit made to plaintiff's trust fund account and forward the funds to the Clerk on a regular basis in compliance with the provisions of 28 U.S.C. § 1915(b) until the fee has been paid.

The Clerk will provide copies of this Order to the parties, to the TDCJ - Office of the General Counsel, P.O. Box 13084, Capitol Station, Austin, TX 78711, Fax 512-936-2159; the Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629, fax 936-437-4793; and to the Clerk of the United States District Court for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas, 75702, Attention: Betty Parker.

Signed at Houston, Texas, on 19th day of September, 2005.


MELINDA HARMON
UNITED STATES DISTRICT JUDGE